

AN ORDINANCE

00-0-1423

BY COUNCIL MEMBER JIM MADDOX

**AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE HOUSING AUTHORITY OF THE CITY OF ATLANTA, GEORGIA (THE "AUTHORITY") AND THE CITY OF ATLANTA PERTAINING TO THE PERFORMANCE OF CERTAIN PUBLIC IMPROVEMENTS BY THE AUTHORITY FOR THE BENEFIT OF THE CITY OF ATLANTA; TRANSFERRING APPROPRIATIONS IN THE AMOUNT OF \$292,000 TO FUND SAID PUBLIC IMPROVEMENTS; AND FOR OTHER PURPOSES.**

WHEREAS, The Housing Authority of the City of Atlanta, Georgia (the "Authority") (together with its development partner, The Integral Partnership of Atlanta) is engaged in the revitalization of the Kimberly Courts public housing community into a new mixed-finance, mixed-income community (referred to herein sometimes as "Kimberly Courts"); and

WHEREAS, the redevelopment includes the demolition of 300 distressed units (which has been completed) and the redevelopment of Kimberly Courts into a mixed-finance, mixed-income community (which is under construction); and

WHEREAS, Phase I, containing 152 units with 46 units reserved for public housing eligible families, is under construction; and

WHEREAS, the revitalization of this community is of enormous importance to the economic health of the City and the well-being of its residents; and

WHEREAS, the City owns, and has the responsibility for furnishing and performing certain public improvements, including landscaping, streetscape, sidewalks, lighting and street improvements, necessary to support Phase I of the development of Kimberly Courts (the "Phase I Public Improvements"); and

WHEREAS, as part of the revitalization of Kimberly Courts, the City and the Authority have agreed that in order to support the development timetable set forth for the revitalization, the City has authorized the Authority to perform Phase I Public Improvements; and

WHEREAS, the City and the Authority have worked together to develop plans for the Phase I Public Improvements necessitated by the revitalization of Kimberly Courts; and

**WHEREAS**, the City acknowledges that it would have had to perform the Phase I Public Improvements work but for the Authority's willingness to perform such work, as more fully described in the Public Improvements Budget attached as Exhibit A; and

**WHEREAS**, the City and the Authority acknowledge and agree that the most efficient and economical manner in which to perform the Phase I Public Improvements is to have such work performed by the Authority or its contractors and to have the City contribute \$292,000 to the Authority for the costs incurred or to be incurred by the Authority in performing such work as described in the Public Improvements Budget attached as Exhibit A; and

**WHEREAS**, the City now wishes to make a contribution to the Authority for a portion of the cost of said improvements.

**NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:**

Section 1. The Mayor is authorized to enter into an intergovernmental agreement with the Authority for the construction of public improvements at Kimberly Courts by the Authority for the use and benefit of the Authority and the City in an amount not to exceed \$292,000. Said amounts shall be paid as follows: \_\_\_\_\_.

Section 2. The City Attorney is authorized to prepare and review all necessary contractual agreements, and the Mayor is authorized to execute all necessary agreements after approval by the City Attorney as to form.

Section 3. Said agreements shall not be binding on the City until executed by the Mayor and delivered to the contracting party.

Section 4. The Chief Financial Officer be and is hereby authorized to make payment for said contractual agreement from the appropriation accounts cited above in the aggregate amount not to exceed \$292,000.

EXHIBIT A

Kimberly Courts Redevelopment, Phase I

Public Improvements Breakdown

<u>Description of Work</u>	<u>Cost</u>
1. Kimberly Road Sidewalk Project	\$147,000
2. Street Resurfacing	\$ 39,200
3. Street lighting	\$ 91,500
4. Street curb project	\$ 17,200
Total	\$292,000

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (the "Agreement"), entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2000, by and between **The Housing Authority of the City of Atlanta, Georgia** (herein called the "Authority") and the **City of Atlanta, Georgia** (herein called the "City").

### RECITALS

**WHEREAS**, The Housing Authority of the City of Atlanta, Georgia (the "Authority") (together with its development partner, The Integral Partnership of Atlanta) is engaged in the revitalization of the Kimberly Courts public housing community into a new mixed income community (referred to herein sometimes as "Kimberly Courts"); and

**WHEREAS**, the redevelopment includes the demolition of 300 distressed units (which has been completed) and the redevelopment into a mixed-finance, mixed-income community (which is under construction); and

**WHEREAS**, Phase I, containing 152 units with 46 units reserved for public housing eligible families, is under construction; and

**WHEREAS**, the revitalization of this community is of enormous importance to the economic health of the City and the well-being of its residents; and

**WHEREAS**, the City owns, and has the responsibility for furnishing and performing certain public improvements, including landscaping, streetscaping, sidewalks, lighting and street improvements, necessary to support Phase I of the development of Kimberly Courts (the "Phase I Public Improvements"); and

**WHEREAS**, as part of the revitalization of Kimberly Courts, the City and the Authority have agreed that in order to support the development timetable set forth for the revitalization, the City has authorized the Authority to perform Phase I Public Improvements; and

**WHEREAS**, the City and the Authority have worked together to develop plans for the Phase I Public Improvements necessitated by the revitalization of Kimberly Courts; and

**WHEREAS**, the City acknowledges that it would have had to perform the Phase I Public Improvements work but for the Authority's willingness to perform such work, as more fully described in the Public Improvements Budget attached as Exhibit A; and

**WHEREAS**, the City and the Authority acknowledge and agree that the most efficient and economical manner in which to perform the Kimberly Public Improvements is to have such work performed by the Authority or its contractors and to have the City contribute \$292,000 to the Authority for the costs incurred or to be incurred by the Authority in performing such work as

described in the Public Improvements Budget attached as Exhibit A; and

**WHEREAS**, the City now wishes to make a contribution to the Authority for a portion of the cost of said improvements; and

**WHEREAS**, subject to the terms and conditions set forth herein, the City and the Authority have agreed that the Authority would perform the Phase I Public Improvements on behalf of the City and the City desires to accept such offer and contribute the funds to the Authority for the Phase I Public Improvements.

**NOW, THEREFORE**, in consideration of ten dollars (\$10) and the mutual agreements and covenants hereinafter set forth and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto hereby agree as follows:

1. City Legislation and Funding. The City hereby acknowledges and agrees that pursuant to Ordinance No. 00-O-\_\_\_\_\_, adopted by the City Council on \_\_\_\_\_, 2000 and approved by the Mayor on \_\_\_\_\_, 2000, that the Mayor is authorized to execute this Agreement. (Copy of Ordinance No. 00-O-\_\_\_\_\_ attached).

2. Performance of Work; Inspection. The City hereby authorizes the Authority and its contractors and the Authority hereby agrees to perform or cause its contractors to perform the Phase I Public Improvements work on behalf of the City. The Authority shall cause an independent inspecting engineer to periodically inspect the Phase I Public Improvements work and confirm that the relevant portion of the public improvements has been satisfactorily completed. The Authority shall cause a copy of such report to be delivered to the City's Department of Public Works. The City acknowledges that portions of the Phase I Public Improvements work has already began and some portions completed. Upon completion of all of the Phase I Public Improvements work, the Authority shall cause said inspecting engineer to deliver a final report which complies with the specifications required by the City's Department of Public Works to the City's Department of Public Works confirming that the Phase I Public Improvements work was completed satisfactorily.

3. Contribution by the City.

a. Contribution. The City hereby agrees to contribute to the Authority an amount equal to \$292,000 (the "Contribution") for the cost of performing the Phase I Public Improvements work. The City shall make such contribution as soon as practicable, but in no event later than November 27, 2000 (the "Commitment Date"). The City acknowledges that its commitment to provide sufficient funding for the public improvements required to support the redevelopment of Kimberly Courts is clearly established in the letter dated December 14, 1999 executed by Larry Wallace, Chief Operating Officer.

b. Acknowledgment of Purpose of the Contribution. The City hereby acknowledges the purpose of the Contribution is to make a contribution to the Authority to pay the cost of performing the Phase I Public Improvements work. The Authority will be performing such work on behalf of the City. The Authority has become financially obligated to contractors, and will be affected by deadlines concerning the construction of the Phase I Public Improvements, which work has already commenced and some portions completed based on the City's earlier commitment to the Authority concerning the Phase I Public Improvement work. The Contribution will be the sole source of available funds for the Authority to pay these costs. If the Authority has not received the Contribution by the Commitment Date, then the Authority will be at risk for becoming liable for, or subject to liens, fines and penalties and other monetary damages in connection with unpaid construction costs incurred with respect to the Phase I Public Improvements. Accordingly, the City agrees to indemnify and hold harmless the Authority from any damages, losses, expenses, liens, penalties or fines incurred or that are placed in existence by reason of the City's failure to provide fully and timely the Contribution to the Authority as provided in the above-paragraph.

c. Refund to the City. The Authority and the City hereby acknowledge that the cost of performing the Phase I Public Improvements work may exceed \$292,000. The Authority and the City further acknowledge that the cost of public improvements for all phases is likely to exceed contributions from the City. Accordingly, the Authority and the City agree as follows: (1) the excess contribution on any phase will first be used to offset cost overruns on other phases, and (2) if the cost of the public improvements for all phases of the Kimberly Courts Redevelopment does not exceed the total contributions from the City for such public improvements, then the Authority shall refund to the City all unexpended funds. Attached hereto as Exhibit A is documentation supporting such cost for Phase I which is incorporated herein for all purposes. The City acknowledges that it owns and has responsibility for furnishing and performing the Phase I Public Improvements. The Authority is willing to perform the Phase I Public Improvements under the terms and conditions of this Agreement.

4. Dedication of Public Improvements to City. The City and the Authority hereby acknowledge that the development of Kimberly Courts is being accomplished in two or more phases. At such time as Phase I of Kimberly Courts is complete, or at such earlier time as may be practicable given the construction schedule for the Phase I Public Improvements, the Authority, as appropriate, shall cause the Phase I Public Improvements work to be dedicated to the City, and the City shall accept such dedication, subject to the improvements being completed in accordance with City standards.

5. Miscellaneous.

a. Insurance. The Authority and its contractors shall maintain such property, casualty, fire, hazard and liability insurance as the City may reasonably require and on all such insurance policies, the City shall be named as an additional insured as its interests may appear. The Authority and the City hereby acknowledge that the cost of such insurance will be

considered a cost of the Phase I Public Improvements.

b. Indemnity. To the extent that the Authority is the beneficiary of any warranties, representations or indemnifications made by any contractor, subcontractor or supplier in connection with the Phase I Public Improvements work, the Authority agrees to indemnify and hold harmless the City, its officers, agents and employees from any and all losses, expenses, demands and claims (collectively, "Losses") against the City, its officers, agents and employees sustained or alleged to have been sustained in connection with or as a result from the gross negligence or willful misconduct of the Authority in performing the Phase I Public Improvements work; provided, that any claim for indemnification must be submitted to the Authority within thirty (30) days of the date on which City's Department of Law becomes aware that a Loss is sustained or alleged to be sustained by the City. The City hereby agrees to cause the Department of Law to notify the Authority in the manner described in Section 5.f hereof on the date that the Department of Law becomes aware of a sustained or alleged Loss. The City hereby acknowledges that the Authority is acting as an Agent in this instance and agrees that the indemnification provided above is limited solely to the indemnification provided to the Authority by contractors, subcontractors or suppliers who perform such work. The parties agree that any indemnification or obligation to indemnify under this paragraph is expressly limited to any insurance proceeds received by the Authority from liability insurance required under this Agreement and to any amounts received by the Authority from contractors, subcontractors or suppliers as a result of warranties, representations and indemnifications. In the event it is determined that a Loss which was alleged to have been sustained by the City was not actually sustained, the City shall refund any amounts paid to it by the Authority or on behalf of the Authority pursuant to this Section 5.b, to the Authority. This indemnification shall expire two years from the date of the completion of the Phase I Public Improvements work.

c. Contract Budget. Funds of the contract budget may be shifted between line items of the Phase I Public Improvements Budget with advance written approval by the City through the Commissioner of Public Works.

d. Monitoring Activities. The Authority agrees that the City may carry out inspection, monitoring, evaluation and auditing activities concerning the performance of the Phase I Public Improvements work as the City deems reasonably necessary, provided that City gives reasonable advance notice to the Authority.

e. Records. The Authority and its contractors shall maintain such records and accounts related to the Phase I Public Improvements work as are deemed reasonably necessary by the City, and the Authority, upon receipt of five business days prior written notice from the City, shall permit representatives of the City, at City's sole cost and expense, to have full access to and the right to examine any books, documents, papers and records involving the performance of the Work during normal business hours at the Authority's central office. The Authority's obligation to maintain such records and accounts and the City's right to examine any books, records or other documents shall expire two years after the date of this Agreement.

f. Notices. Notices and reports described herein shall be delivered or sent to the parties as follows.

To the Authority:

Executive Director  
The Housing Authority of the City of Atlanta, Georgia  
739 W. Peachtree Street, N.E.  
Atlanta, Georgia 30365  
Fax: 404-892-4868  
Tel: 404-817-7463

With a copy to:

General Counsel  
Legal and Non-Profit Affairs  
The Housing Authority of the City of Atlanta, Georgia  
739 W. Peachtree Street, N.E.  
Atlanta, Georgia 30365  
Fax: 404-876-9099  
Tel: 404-817-7212

To the City:

Commissioner  
Department of Public Works  
68 Mitchell Street, S.W.  
Suite 4700  
Atlanta, Georgia 30335-0324  
Fax: 404-658-7052  
Tel: 404-630-6240

With a copy to:

Bernard R. Thomas, Esq.  
Suite 4100, City Hall Tower  
68 Mitchell Street, S.W.  
Atlanta, Georgia 30335-0332  
Fax: 404-658-6894  
Tel: 404-330-6400

g. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or by reason of public policy, all other conditions and provision of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of these transactions contemplated hereby is not affected in any manner materially adverse to either party.



h. Entire Agreement; Amendment; Waiver; Counterparts. This Agreement constitutes the entire agreement between the parties; it supersedes any prior agreement or understandings between them, oral or written, with respect to the matters addressed herein, all of which are hereby canceled. This Agreement may not be amended or modified except by an instrument in writing signed by both parties hereto. Waiver of any term or condition of this Agreement shall be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the City and the Authority have executed this Agreement and caused their seals to be affixed and attested as of the day and year first above written.

(Signatures on following page)

THE HOUSING AUTHORITY OF  
CITY OF ATLANTA, GEORGIA

By: \_\_\_\_\_ (SEAL)  
Renée Lewis Glover  
Executive Director

Attest:

\_\_\_\_\_  
Assistant Secretary

CITY OF ATLANTA, GEORGIA

By: \_\_\_\_\_ (SEAL)  
Mayor

Attest:

Recommended:

\_\_\_\_\_  
Municipal Clerk

\_\_\_\_\_  
Chief Operating Officer

Approved as to Form:

\_\_\_\_\_  
Chief Financial Officer

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Commissioner, Department of Public Works

EXHIBIT A

Kimberly Courts Redevelopment, Phase I

Public Improvements Breakdown

<u>Description of Work</u>	<u>Cost</u>
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# CITY OF ATLANTA

BILL CAMPBELL  
MAYOR

CITY HALL  
55 TRINITY AVENUE, S.W.  
ATLANTA, GEORGIA 30335-0300  
(404) 330-6100

December 14, 1999

Ms. Renee Lewis Glover, Executive Director  
The Housing Authority of the City of Atlanta  
739 West Peachtree Street, NE  
Atlanta, GA 30365

Re: Public Improvements Commitment from the City of Atlanta  
Phase I of the Kimberly Courts Revitalization

Dear Ms. Glover

This letter will confirm the intent of the City of Atlanta ("the City") to assist the Housing Authority of the City of Atlanta, Georgia (the "Authority") with the cost of making certain public and streetscape improvements (all of which are more fully outlined in the attachment and collectively, referred to herein as "Public Improvements") to support Phase I of the revitalization of the Kimberly Courts community. Kimberly Courts revitalization is part of the Authority's Olympic Legacy Program.

The City and the Authority acknowledge the need for the public improvements necessitated by the revitalization of Kimberly Courts and agree that it would be advantageous and cost effective to have the public improvements made in connection with the redevelopment of Kimberly Courts. Pending identification of the specific funding source and City Council approval, the Mayor's Office will seek the necessary funding in the amount of \$292,000 for the "public improvements" as defined. The City understands that public housing development funds cannot be expended for local government costs.

The Mayor will request funding for Phase I of the Kimberly Courts revitalization as part of the FY2000 budget year request. Adoption of the budget is expected by February 1, 2000 and funds identified for these projects should be available in April of next year.

We understand that the Authority's development partner's private financing sources are requiring a more comprehensive approach to improving the area surrounding the proposed Kimberly Courts development. The Kimberly Courts area is very remote and isolated and because of the sparse development in the area, a broader approach must be

Ms. Renee Lewis Glover

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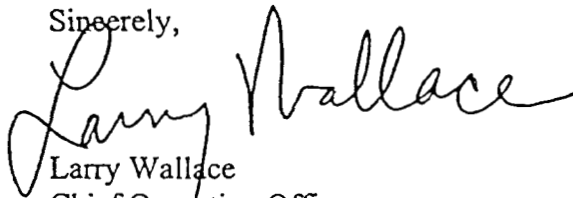
December 14, 1999

taken. We strongly believe the Kimberly Courts revitalization project will be a wonderful investment on the part of the City since this project will be a catalyst for further development in the Southwest Atlanta corridor. The improvements that the City will seek funding for in the FY2000 budget include the following:

1. Adding new street lighting along the east and west sides of the length of Kimberly Road that is within the City limits. (A similar request will be made to Fulton County for the length of Kimberly Road that is in the County.)
2. Remove scattered trash that has been dumped along Kimberly Road and post signs along the area so that no dumping can be enforced and this cleanup effort maintained.
3. Clear and maintain the right-of-way area along Kimberly Road
4. Deceleration or acceleration lanes on Kimberly Road
5. Concrete curb on opposite side of Kimberly Road
6. Resurfacing entire width of Kimberly Road in front of property
7. Traffic signals on Kimberly Road
8. Drainage or other utility work for Kimberly Road

Also, the City will work with MARTA to install a new bus stop at or near the entrance to this project. If there are any questions concerning this, or if any additional information is required, please contact Michael Dobbins at 404/330-6037.

Sincerely,



Larry Wallace  
Chief Operating Officer

c: Councilmember Jim Maddox  
Michael .A. Dobbins  
Norman Koplon  
Judith Blackwell, CFO

## Kimberly Courts Redevelopment, Phase I

### Public Improvements Breakdown

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1. Kimberly Road Sidewalk Project	\$147,000
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Total	\$292,000

(10)  
00-0-1423

(Do Not Write Above This Line)

AN ORDINANCE

BY: COUNCILMEMBER JIM MADDIX

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE HOUSING AUTHORITY OF THE CITY OF ATLANTA, GEORGIA (THE "AUTHORITY") AND THE CITY OF ATLANTA PERTAINING TO THE PERFORMANCE OF CERTAIN PUBLIC IMPROVEMENTS BY THE AUTHORITY FOR THE BENEFIT OF THE CITY OF ATLANTA; TRANSFERRING APPROPRIATIONS IN THE AMOUNT OF \$292,000.00 TO FUND SAID PUBLIC IMPROVEMENTS; AND FOR OTHER PURPOSES.

- ☐ CONSENT REFER  
☐ REGULAR REPORT REFER  
☐ ADVERTISE & REFER  
☐ 1st ADOPT 2nd READ & REFER  
☒ PERSONAL PAPER REFER

Date Referred 9/5/00

Referred To: Executive Finance

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_

Chair \_\_\_\_\_

Referred to

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd

Readings

☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

MAYOR'S ACTION